

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Richard & Angel Czerwinski,
Appellants,

v.

Mills County Board of Review,
Appellee.

ORDER

Docket No. 13-65-0004

Parcel No. 05023-003-00-00-000

On April 25, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Richard and Angel Czerwinski were self-represented and requested their appeal proceed without a hearing. Attorney Brett Ryan of Watson & Ryan, PLC, Council Bluffs, represented the Mills County Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Richard and Angel Czerwinski are the owners of residentially classified property located at 57162 225th Street, Glenwood, Iowa. The subject property is a one-story home built in 1974 with 1562 square feet of above grade finish and a full basement with 900 square feet of living-quarter quality finish. It has a deck, patio, open porch, and an 836 square-foot attached garage. There is also a 768 square-foot detached garage, which was built in 1965. The site is 0.865 acres.

The January 1, 2013, assessed value was \$202,950, allocated as \$39,500 in land value and \$163,450 in dwelling value. The Czerwinskis protested to the Board of Review claiming the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). They asserted the correct value was \$140,000. The Board of Review denied the petition.

They then appealed to this Board.

The Czerwinskis did not submit any evidence to the Board of Review, nor did they attend the Board of Review hearing.

In their appeal to this Board, the Czerwinskis state they are appealing the assessment because they purchased the property for less than the assessment. The property record card indicates Czerwinskis purchased the property in July 2012 for \$140,600. The Czerwinskis provided a Purchase Agreement Addendum, which included a notation that the roof was in need of replacement and all required repairs would be their burden, as the buyers of the property. They note the estimated roof repairs are between \$4000 and \$6000. They also provided a hand-written list of other deficiencies in the property including:

- no baseboard trim;
- furnace in need of replacement;
- no air conditioning;
- detached garage leans;
- leaky faucets and toilet;
- two showers are non-functioning; and
- garage doors do not operate.

Other than the roof estimate, they did not provide any other cost estimates for these repairs. Further, they did not provide any evidence of the market value for the subject property that takes into consideration the deficiencies they noted. Czerwinskis also noted the appraised value of the property was \$146,000. However, they did not provide it to the Board of Review or this Board.

Lastly, they provided an amortization schedule and a closing statement. Neither of these documents is useful in determining the fair market value of the subject property as of January 1, 2013.

The Board of Review submitted a brief, which indicates the July 2012 sale of the subject property was the result of a foreclosure, which is an abnormal sale for assessment purposes.

Further, it provided four sales and their property record cards, which the Board of Review asserts demonstrate the subject property's assessment is correct. The following grid summarizes the Board's evidence.

Address	Size	Sale Price	Sale Date
24113 Ives Ave	1532	\$222,000	Jun-12
57128 220th Ave	1008	\$183,776	Feb-12
57142 240th St	1428	\$172,900	Jun-12
57057 230th St	1422	\$198,250	Dec-12

Ultimately, the sales are not adjusted for differences between them and the subject property, and we give the information limited consideration.

Conclusion of Law


The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the *taxpayer* has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Czerwinskis assert the correct market value of their property is the price they

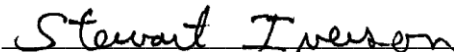
paid for the property. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. Moreover, the record indicates the Czerwinskis purchased the subject property from a government organization as the result of a foreclosure, which makes the transaction abnormal, and adjustments must be made to eliminating the distorting effect. § 441.21(1)(b) ("In arriving at market value, sales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to . . . foreclosure or other forced sales."). However, their sale price was not adjusted to compensate for the abnormal sale condition nor did they provide any other evidence of market value. Thus, they failed to show their property is over-assessed.

THE APPEAL BOARD ORDERS the January 1, 2013 assessment of Richard and Angel Czerwinski's property located at 57162 225th Street, Glenwood, Iowa, as set by the Mills County Board of Review is affirmed.

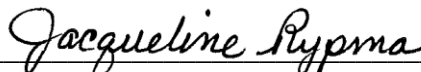
Dated this 5th day of May 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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